

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ISAAC RUIZ

Plaintiff,

v.

JERRY KIMES *et al.*,

Defendants

Case No. C07-5273RBL

ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT OF
COUNSEL

This action, brought under 42 U.S.C. 1983, has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). The plaintiff has been granted leave to proceed *in forma pauperis*. Before the court is plaintiff's motion for appointment of counsel (Dkt. # 15). Defendants, through counsel, have responded (Dkt # 16). Plaintiff has replied (Dkt # 17).

The court notes that the pleadings from plaintiff are prepared by another inmate. The plaintiff's filings contain personal attacks on counsel that are not warranted. The parties are warned that the court does not condone such conduct.

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe,

1 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the
2 likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of
3 the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

4 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. While his claims may
5 have been prepared for him by others, they are before the court and clear.

6 Plaintiff claims he was denied due process when he was asked 54 questions in English and then
7 denied good time based on his responses to the question. Plaintiff claims his lack of English language skills
8 resulted in his not understanding the majority of the questions. Plaintiff maintains he is entitled to have the
9 questions re-asked when he has a Spanish interpreter present. Plaintiff requests a decision to grant or deny
10 the good time in question be made on his answers after an interpreter has been provided. Plaintiff does not
11 seek monetary damages, only injunctive relief.

12 Plaintiff does not show exceptional circumstances in this case or that the issues are legally complex.
13 It is difficult for the court to judge the question of success on the merits at this juncture of the case. The
14 motion for appointment of counsel is **DENIED**.

15 The Clerk is directed to send a copy of this Order to plaintiff and to remove (Dkt. # 15) from the
16 court's calendar.

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18 DATED this 1 day of November, 2007.

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20 /s/ J. Kelley Arnold
21 J. Kelley Arnold
22 United States Magistrate Judge
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